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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[C-520-806]

Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce preliminarily determines that countervailable subsidies are not being provided to producers and exporters of circular welded carbon-quality steel pipe (“circular welded pipe”) from the United Arab Emirates (“UAE”).

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Joshua Morris or Dustin Ross, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1779 and (202) 482-0747, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the publication of the Department of Commerce’s (“the Department”) notice of initiation in the *Federal Register*. See *Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations*, 76 FR 72173 (November 22, 2011) (“*Initiation Notice*”), and the accompanying Initiation Checklist.

On November 22, 2011, the Department released the U.S. Customs and Border Protection (“CBP”) data on imports of subject merchandise during the period of investigation (“POI”), under administrative protective order (“APO”) to all parties with APO access. *See* Memorandum to the File from Joshua Morris, “Release of Customs and Border Protection (“CBP”) Data,” dated November 22, 2011. On November 30, 2011, we received comments on the data from Wheatland Tube, one of the petitioners in this investigation. On December 16, 2011, the Department selected two Emirati producers/exporters of circular welded pipe as mandatory company respondents: 1) Abu Dhabi Metal Pipes & Profiles Industries Complex LLC (“ADPICO”); and 2) Universal Tube and Plastic Industries, Ltd. (“Universal Plastic”). *See* Memorandum to Christian Marsh, “Respondent Selection Memorandum,” dated December 16, 2011. This memorandum is on file electronically in Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”), with access to IA ACCESS available in the Department’s Central Records Unit (“CRU”), room 7046 of the main Department building.

Also on December 16, 2011, the U.S. International Trade Commission (“ITC”) published its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports of circular welded pipe from India, the Sultanate of Oman, the UAE, and the Socialist Republic of Vietnam. *See Circular Welded Carbon-Quality Steel Pipe from India, Oman, the United Arab Emirates, and Vietnam*, 76 FR 78313 (December 16, 2011).

On December 19, 2011, the Department postponed the deadline for the preliminary determination in this investigation until March 26, 2012. *See Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist*

Republic of Vietnam: Postponement of Preliminary Determinations in the Countervailing Duty Investigations, 76 FR 78615 (December 19, 2011). In conjunction with this postponement, the Department also postponed the deadline for the submission of new subsidy allegations until February 15, 2012. See Memorandum to the File from Joshua S. Morris, “New Subsidy Allegation Deadline: *Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam*,” dated, December 15, 2011.

On December 21, 2011, the Department issued countervailing duty (“CVD”) questionnaires to the Government of the UAE (“GUAЕ”), ADPICO, and Universal Plastic. The Department received responses from Universal Plastic (“UQR”) on February 16, 2012, and both the GUAЕ (“GQR”) and ADPICO (“AQR”) on February 17, 2012. The Department received responses to supplemental questionnaires from ADPICO on March 14, 2012, and from Universal Plastic, and the GUAЕ (“GSR”) on March 16, 2012.

Wheatland Tube requested two extensions of the deadline for filing new subsidy allegations. As a result, this deadline was extended from February 15 to February 24, and then to February 28, 2012. See Memorandum to the File from Susan Kuhbach, “New Subsidy Allegation Deadline: *Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam*,” dated February 6, 2012, and Letter to Interested Parties, dated February 24, 2012.

On February 28, 2012, Wheatland Tube submitted new subsidy allegations requesting the Department to expand its CVD investigation to include an additional subsidy program, while also requesting that the Department modify its investigation of already alleged programs in light of information placed on the record of the proceeding by the respondents. See Letter from

Petitioner Wheatland Tube, “New Subsidies Allegation and Additional Factual Information,” dated February 28, 2012. On March 16, 2012, the Department initiated an investigation into the new subsidy allegations. *See* Memorandum to Susan H. Kuhbach, “Analysis of Petitioners’ New Subsidy Allegations,” dated March 16, 2012. On March 26, 2012, the Department issued supplemental questionnaires regarding this new subsidy allegation to the GUAE, ADPICO, and Universal Plastic.

On March 19, 2012, Wheatland Tube submitted pre-preliminary determination comments with respect to this investigation. On March 22, 2012, the GUAE also submitted pre-preliminary determination comments.

Period of Investigation

The period for which we are measuring subsidies, *i.e.*, the POI, is January 1, 2010, through December 31, 2010.

Scope Comments

In accordance with the preamble to the Department’s regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice. *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997), and *Initiation Notice*, 76 FR at 72173. On December 5, 2011, SeAH Steel VINA Corp. (“SeAH VINA”), a mandatory respondent in the concurrent countervailing duty (“CVD”) circular welded pipe from the Socialist Republic of Vietnam investigation, filed comments arguing that the treatment of double and triple stenciled pipe in the scope of these investigations differs from previous treatment of these products under other orders on circular pipe. Specifically, SeAH VINA claims that the Brazilian, Korean, and Mexican orders on these products exclude

“Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil and gas pipelines ...” *See, e.g., Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea, and Taiwan; and Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Order*, 76 FR 66899, 66900 (Oct. 28, 2011). According to SeAH VINA: (i) if the term “class or kind of merchandise” has meaning, it cannot have a different meaning when applied to the same products in two different cases; and (ii) the distinction between standard and line pipe reflected in the Brazil, Korean and Mexican orders derives from customs classifications administered by CBP and, thus, is more administrable.

On December 14, 2011, Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube (collectively, “certain Petitioners”) responded to SeAH VINA’s comments stating that the scope as it appeared in the *Initiation Notice* reflected Petitioners’ intended coverage. Certain Petitioners contend that pipe that is multi-stenciled to both line pipe and standard pipe specifications and meets the physical characteristics listed in the scope (*i.e.*, is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.*, polyester coated) surface finish; or has a threaded and/or coupled end finish) is ordinarily used in standard pipe applications. In recent years, certain Petitioners state, the Department has rejected end-use scope classifications, preferring instead to rely on physical characteristics to define coverage, and the scope of these investigations has been written accordingly. Therefore, certain Petitioners ask the Department to reject SeAH VINA’s proposed scope modification.

We agree with certain Petitioners that the Department seeks to define the scopes of its proceedings based on the physical characteristics of the merchandise. *See Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical*

Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China, 73 FR 31970 (June 5, 2008) and accompanying Issues and Decision Memorandum at Comment 1. Moreover, we disagree with SeAH VINA's contention that once a "class or kind of merchandise" has been established that the same scope description must apply across all proceedings involving the product. For example, as the Department has gained experience in administering antidumping duty ("AD") and CVD orders, it has shifted away from end use classifications to scopes defined by the physical characteristics. *Id.* Thus, proceedings initiated on a given product many years ago may have end use classifications while more recent proceedings on the product would not. *Compare Countervailing Duty Order: Oil Country Tubular Goods from Canada*, 51 FR 21783 (June 16, 1986) (describing subject merchandise as being "intended for use in drilling for oil and gas") with *Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 3203 (January 20, 2010) (describing the subject merchandise in terms of physical characteristics without regard to use or intended use). Finally, certain Petitioners have indicated the domestic industry's intent to include multi-stenciled products that otherwise meet the physical characteristics set out in the scope. Therefore, the Department is not adopting SeAH VINA's proposed modification of the scope.

Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter ("O.D.") not more than 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.*, black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.*, American Society for Testing and Materials International ("ASTM"), proprietary, or other) generally

known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term “carbon quality” includes products in which: (a) iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

- (i) 1.80 percent of manganese;
- (ii) 2.25 percent of silicon;
- (iii) 1.00 percent of copper;
- (iv) 0.50 percent of aluminum;
- (v) 1.25 percent of chromium;
- (vi) 0.30 percent of cobalt;
- (vii) 0.40 percent of lead;
- (viii) 1.25 percent of nickel;
- (ix) 0.30 percent of tungsten;
- (x) 0.15 percent of molybdenum;
- (xi) 0.10 percent of niobium;
- (xii) 0.41 percent of titanium;
- (xiii) 0.15 percent of vanadium;
- (xiv) 0.15 percent of zirconium.

Subject pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. Fence tubing is included in the scope regardless of

certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications. These products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (“API”) API-5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above, and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.*, polyester coated) surface finish; or has a threaded and/or coupled end finish.

The scope of this investigation does not include: (a) pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) finished electrical conduit; (c) finished scaffolding;¹ (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; (f) line pipe produced to only API specifications; and (g) mechanical tubing, whether or not cold-drawn. However, products certified to ASTM mechanical tubing specifications are not excluded as mechanical tubing if they otherwise meet the standard sizes (*e.g.*, outside diameter and wall thickness) of standard, structural, fence and sprinkler pipe. Also, products made to the following outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, would not be excluded from the scope based solely on their being certified to ASTM mechanical tubing specifications:

¹ Finished scaffolding is defined as component parts of final, finished scaffolding that enters the United States unassembled as a “kit.” A “kit” is understood to mean a packaged combination of component parts that contain, at the time of importation, all the necessary component parts to fully assemble a final, finished scaffolding.

1.315 inch O.D. and 0.035 inch wall thickness (gage 20)

1.315 inch O.D. and 0.047 inch wall thickness (gage 18)

1.315 inch O.D. and 0.055 inch wall thickness (gage 17)

1.315 inch O.D. and 0.065 inch wall thickness (gage 16)

1.315 inch O.D. and 0.072 inch wall thickness (gage 15)

1.315 inch O.D. and 0.083 inch wall thickness (gage 14)

1.315 inch O.D. and 0.095 inch wall thickness (gage 13)

1.660 inch O.D. and 0.047 inch wall thickness (gage 18)

1.660 inch O.D. and 0.055 inch wall thickness (gage 17)

1.660 inch O.D. and 0.065 inch wall thickness (gage 16)

1.660 inch O.D. and 0.072 inch wall thickness (gage 15)

1.660 inch O.D. and 0.083 inch wall thickness (gage 14)

1.660 inch O.D. and 0.095 inch wall thickness (gage 13)

1.660 inch O.D. and 0.109 inch wall thickness (gage 12)

1.900 inch O.D. and 0.047 inch wall thickness (gage 18)

1.900 inch O.D. and 0.055 inch wall thickness (gage 17)

1.900 inch O.D. and 0.065 inch wall thickness (gage 16)

1.900 inch O.D. and 0.072 inch wall thickness (gage 15)

1.900 inch O.D. and 0.095 inch wall thickness (gage 13)

1.900 inch O.D. and 0.109 inch wall thickness (gage 12)

2.375 inch O.D. and 0.047 inch wall thickness (gage 18)

2.375 inch O.D. and 0.055 inch wall thickness (gage 17)

2.375 inch O.D. and 0.065 inch wall thickness (gage 16)

2.375 inch O.D. and 0.072 inch wall thickness (gage 15)
2.375 inch O.D. and 0.095 inch wall thickness (gage 13)
2.375 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.120 inch wall thickness (gage 11)
2.875 inch O.D. and 0.109 inch wall thickness (gage 12)
2.875 inch O.D. and 0.134 inch wall thickness (gage 10)
2.875 inch O.D. and 0.165 inch wall thickness (gage 8)
3.500 inch O.D. and 0.109 inch wall thickness (gage 12)
3.500 inch O.D. and 0.148 inch wall thickness (gage 9)
3.500 inch O.D. and 0.165 inch wall thickness (gage 8)
4.000 inch O.D. and 0.148 inch wall thickness (gage 9)
4.000 inch O.D. and 0.165 inch wall thickness (gage 8)
4.500 inch O.D. and 0.203 inch wall thickness (gage 7)

The pipe subject to this investigation is currently classifiable in Harmonized Tariff Schedule of the United States (“HTSUS”) statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5050, and 7306.50.5070. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the investigation is dispositive.

Alignment of Final Determination

On November 22, 2011, the Department initiated an AD investigation concurrent with this CVD investigation of circular welded pipe from the UAE. *See Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the*

Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations, 76 FR 72164

(November 22, 2011). The scope of the merchandise being covered is the same for both the AD and CVD investigations. On March 23, 2012, Petitioners submitted a letter, in accordance with 19 CFR 351.210(b)(4)(i), requesting alignment of the final CVD determination with the final determination in the companion AD investigation. Therefore, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (“Act”) and 19 CFR 351.210(b)(4), the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued on August 6, 2012.

Subsidies Valuation Information

Allocation Period

Under 19 CFR 351.524(d)(2), the Department presumes the allocation period for non-recurring subsidies to be the average useful life (“AUL”) of the renewable physical assets for the industry concerned, as listed in the tables of the U.S. Internal Revenue Service’s (“IRS”) 1977 Class Life Asset Depreciation Range System, as updated by the U.S. Department of Treasury. According to the updated AUL tables of the IRS, the AUL period for the relevant industry in this proceeding is 15 years. *See* U.S. Internal Revenue Service Publication 946 (2008), *How to Depreciate Property*, at Table B-2: Table of Class Lives and Recovery Periods. No party in this proceeding has disputed this allocation period.

Attribution of Subsidies

The Department’s regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii) through (v) directs that the Department will attribute subsidies received by certain other companies to the combined sales of those companies

if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade (“CIT”) has upheld the Department’s authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits. *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

ADPICO

ADPICO stated that it is a UAE-registered limited liability company, with 51 percent ownership by a UAE national, and 49 percent ownership by a Swiss-registered company. ADPICO also stated that it has no affiliates and responded to the Department’s original and supplemental questionnaires on behalf of itself.

Universal Plastic

Universal Plastic responded to the Department’s original and supplemental questionnaires on behalf of itself and two affiliates: KHK Scaffolding and Formwork LLC (“KHK”) and Universal Tube and Pipe Industries LLC (“Universal Pipe”).

We preliminarily determine that Universal Plastic, KHK, and Universal Pipe are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of common ownership. Moreover, because KHK and Universal Pipe are also producers of subject merchandise, any subsidies received by Universal Plastic, KHK, and Universal Pipe would be attributed to the combined sales of Universal Plastic, KHK, and Universal Pipe (excluding intercompany sales), in accordance with 19 CFR 351.525(b)(6)(ii).

Analysis of Programs

Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Preliminarily Determined Not to Exist

A. Profit Tax Exemptions under UAE Federal Law No.1 of 1979 (“1979 Federal Law”)

According to the GUAE, (1) the provisions of the 1979 Federal Law that provide for profit tax exemptions were never implemented, and (2) the only entities in the UAE subject to income tax are foreign-owned banks and foreign-owned energy companies. *See* GQR at 6.

Therefore, we preliminarily determine that this program does not exist.

B. Provision of Electricity for LTAR under the 1979 Federal Law and the Gulf Cooperation Council (“GCC”) Common Industrial Regulatory Law

According to the GUAE, the provisions of the 1979 Federal Law and the GCC Common Industrial Regulatory Law that relate to the provision of electricity at incentivized rates were never implemented. *See* GQR at 4; *see also* GSR at 17. Therefore, we preliminarily determine that this program does not exist.

C. Provision of Land and/or Buildings for LTAR under the 1979 Federal Law and the GCC Common Industrial Regulatory Law

According to the GUAЕ, the provisions of the 1979 Federal Law and the GCC Common Industrial Regulatory Law that relate to the provision of land and/or buildings at incentivized rates were never implemented. *See* GQR at 7; *see also* GSR at 17. Therefore, we preliminarily determine that this program does not exist.

D. Provision of Water for LTAR under the 1979 Federal Law and the GCC Common Industrial Regulatory Law

According to the GUAЕ, the provisions of the 1979 Federal Law and the GCC Common Industrial Regulatory Law that relate to the provision of water at incentivized rates were never implemented. *See* GQR at 8; *see also* GSR at 17. Therefore, we preliminarily determine that this program does not exist.

E. Preferential Export Lending under the 1979 Federal Law

According to the GUAЕ, the provisions of the 1979 Federal Law that relate to preferential export lending were never implemented. *See* GQR at 5. Therefore, we preliminarily determine that this program does not exist.

II. Programs Preliminarily Determined Not to Be Countervailable

A. Dubai Commodity Receipts (“DCRs”)

DCRs are negotiable warehouse receipts that are issued electronically by the Dubai Multi Commodities Center (“DMCC”), a GUAЕ-owned facility, to facilitate the financing of goods. Petitioners have alleged that, by virtue of the GUAЕ’s role through DMCC, DCR-backed financing comes with an implicit government guarantee, which allows lenders to obtain lower financing costs that they could otherwise obtain outside the DMCC facility.

Beginning in 2004, the DCR platform consists of three types of parties: commodity owners (the “originators”), warehouse keepers (the “issuers”), and financiers. The DCR platform allows commodity owners (*i.e.*, originators) to request warehouse keepers (*i.e.*, issuers) to issue DCRs, which represent goods stored at a warehouse or vault which is managed by the issuer. Originators then “pledge” the receipt to financiers to obtain inventory-backed loans from the financiers. According to the GUAЕ, the program is open to financiers around the world, provided they are approved by the DMCC. *See* GQR at 30.

During the POI, ADPICO was the only respondent to participate in this program. *Id.* at 29. In particular, ADPICO had outstanding loans as part of its trade financing arrangements with a bank in Switzerland during the POI. *Id.* The GUAЕ asserts that at no point did the DMCC offer a guarantee, implicit or otherwise, on loan agreements between ADPICO and its financiers, or act as bank guarantor of the DCR platform. *See* GQR at Exhibit 11. Moreover, the DMCC’s Rules clearly indicate that the DMCC assumes no liabilities for DCR-backed financing that may default. In relevant parts, the Rules state the following:

5.4 Liability of DMCC

5.4.1 Each DCR Member confirms that the liability of DMCC for acting as its commission agent pursuant to the Rules (including under this Clause 5) shall be limited by Clause 13 (Limitation of Liability of DMCC).

5.4.2 Each Legal Owner and each Financier acknowledges that DMCC provides close out settlement services under these Rules, and acts as commission agent for any Legal Owner, *solely for the purposes of facilitating the smooth operation of the DCR System and the efficient settlement of the liabilities of the Legal Owners and the Financiers* following a Close Out Trigger Event. *The DCR Members confirm that DMCC shall have no liability to any Legal Owner, any Financier or any other DCR Member by virtue of its appointment as commission agent for a Legal Owner under this Clause 5 or any exercise by DMCC of its obligation to sell any DCR (or the Goods represented by that DCR) following a Close Out Trigger Event as provided for in this Clause 5.*

* * * * *

13.1 Limitation of liability

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(b) [T]hese Rules expressly set forth all the duties of DMCC with respect to any and all matters pertinent hereto, and *shall not be interpreted so as to impose any implied duties or obligations on DMCC*. DMCC shall not be bound by the provisions of any prior agreement with any DCR Member to the extent that such prior agreement conflicts with these Rules.

See GQR at Exhibit 12 (emphases added).

In light of the above, we find that DCR-backed financing obtained by DCR holders is not subject to any guarantee, implicit or otherwise, that is provided by the government through DMCC and, thus, does not give rise to a transfer, or potential transfer, of government funds to the participants in the DCR financing facility.

Consequently, we preliminarily determine that, while ADPICO did participate in the DCR financing program, no financial contribution exists within the meaning of section 771(5)(D) of the Act. Therefore, we preliminarily determine that this program is not countervailable.

III. Programs Preliminarily Determined To Not Be Used By Respondents During the POI

A. Concessionary Lending from the Emirates Industrial Bank

In addition to investigating preferential export loans granted under the 1979 Federal Law, the Department also investigated preferential export loans extended through the Emirates Industrial Bank (now called the “Emirates National Bank”). We preliminarily determine that none of the respondents had loans from the Emirates National Bank outstanding during the POI.

IV. Programs For Which More Information Is Required

A. Tariff Exemptions under 1979 Federal Law and GCC Common Industrial Regulatory Law

Implemented in 1980, pursuant to the 1979 Federal Law, and subsequently available in accordance with the GCC Customs Union Agreement (2003), industrial establishments operating within the UAE may be exempted from the five percent customs duty on imports of raw materials and capital goods. *See* GQR at 9. In 2005, the GUAU issued Federal Decree No. 73, which implemented the GCC Common Industrial Regulatory Law (2004), establishing the current process for industrial companies to be eligible for, and receive, a tariff exemption. *Id.* at 4 and 11-14.

To receive this duty exemption, an industrial establishment operating with a valid industrial license applies through an online electronic processing system, known as the Duty Exemption Service. *Id.* at 11-12 and 16. This application is automatically and immediately analyzed on the basis of the information that has previously been provided by the applicant during the registration proceedings to get its industrial license, *i.e.*, the applicant is required to submit the list of all items that it intends to import to run its industrial activity upon applying for its industrial license. *Id.* at 12-14. The GUAU further states that the 1979 Federal Law and the GCC Common Industrial Regulatory Law do not apply to companies in free trade zones. *Id.* at 4. The tariff exemption program is administered by the Section of Duty Exemptions within the Directorate of Industrial Development under the Industrial Affairs Department as part of the Ministry of Economy. *Id.* at 9.

ADPICO has benefited from this program since 2002. *See* AQR at Appendix 5.

Universal Plastic and the GUAU reported that Universal Plastic operates within the Jebel Ali

Free Trade Zone (“JAFZ”) and, therefore, could not have benefited from any alleged subsidies under the 1979 Federal Law or the GCC Common Industrial Regulatory Law. *See* UQR at 13 and GQR at 4. However, Universal Pipe and KHK did benefit from this program.

Under Chapter Seven of the GCC Common Industrial Regulatory Law, Article (16) states that certain “industrial projects shall have the priority of privileges and exemptions,” and lists “projects producing export goods” among the activities that will benefit from the “priority of privileges and exemptions.” *See* GQR Exhibit 4 at page 12. We find that the Department needs additional information to better assess whether tariff exemptions provided under this program are specific within the meaning of section 771(5A) of the Act. In particular, we intend to seek information regarding the meaning of “priority” in this context and how it is implemented in granting tariff exemptions. We intend to seek additional information, and further address this program in a post-preliminary analysis.

B. Provision of Natural Gas for LTAR

As discussed above, new subsidy allegation questionnaires were sent to the respondents on March 26, 2012, and responses are still outstanding with respect to this program. Because we lack necessary information to make a preliminary determination at this time, we intend to address the countervailability of this program in the post-preliminary analysis.

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by the respondents prior to making our final determination.

Preliminary Negative Determination

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated individual subsidy rates for ADPICO and Universal Plastic, the two mandatory producers/exporters.

Section 705(c)(5)(A)(i) of the Act provides that the all others rate will generally be an amount equal to the weighted average countervailable subsidy rates established for exporters or producers individually investigated, excluding any zero or *de minimis* countervailable subsidy rates and any rates determined entirely on the basis of fact available. In this case, however, the countervailable subsidy rates for all of the individually investigated exporters or producers are zero. Section 705(c)(5)(A)(ii) of the Act provides that, when this is the case, the administering authority may use any reasonable method to establish the all others rate, including averaging the weighted average countervailable subsidy rates determined for the exporters and producers individually examined. Thus, to calculate the all others rate, we averaged the individual rates of the ADPICO and Universal Plastic. Therefore, we assigned a zero rate to all other producers and exporters.

| Exporter/Manufacturer | Net Subsidy Rate |
|---|-------------------------|
| Abu Dhabi Metal Pipes & Profiles Industries Complex LLC | Zero |
| Universal Tube and Plastic Industries, Ltd.; KHK Scaffolding and Formwork LLC; and Universal Tube and Pipe Industries LLC | Zero |
| All Others | Zero |

Because all of the rates are zero, we preliminarily determine that no countervailable subsidies are being provided to the production or exportation of circular welded pipe in the UAE. As such, we will not direct CBP to suspend liquidation of entries of circular welded pipe from the UAE.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(3) of the Act, if our final determination is affirmative, the ITC will make its final determination within 75 days after the Department makes its final determination.

Disclosure and Public Comment

Due to the anticipated timing of verification and issuance of verification reports, case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. *See* 19 CFR 351.309(c)(i) for a further discussion of case briefs. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1). A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. *See* 19 CFR 351.309(c)(2) and (d)(2).

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will be held two days after the deadline for submission of

the rebuttal briefs, pursuant to 19 CFR 351.310(d), at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must electronically submit a written request to the Assistant Secretary for Import Administration using IA ACCESS, within 30 days of the publication of this notice, pursuant to 19 CFR 351.310(c). Requests should contain: (1) the party's name, address, and telephone; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. *Id.*

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

March 26, 2012_
(Date)

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